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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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ZIOLKOWSKI PATENT SOLUTIONS GROUP, LLC (GEMS)			PORTER, RACHEL L	
14135 NORTH CEDARBURG ROAD			ART UNIT	
MEQUON, WI 53097			PAPER NUMBER	

3626

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/689,374

Applicant(s)

BRINSFIELD ET AL.

Examiner

Rachel L. Porter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the communication filed 10/4/2004. Claims 1-31 are pending.

Claim Rejections - 35 USC § 112

2. The rejection of claim 16 under 35 U.S.C. 112, second paragraph, as being indefinite is hereby withdrawn due the response filed 10/4/04.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7,9,12,14, and 18-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Maschke et al (USPN 6,221,012).

[claim 1] Maschke teaches a wireless bi-directional portable patient monitor comprising:

- a communication interface to receive patient data from a wireless local area network (WLAN) within a medical care facility and transmit care parameters as needed to the WLAN in response thereto (col. 3, lines 21-44)
- a processor connected to the communication interface to process the patient data and the care parameters; (col. 3, line 21-44)

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- a display connected to the processor to display the processed patient data in human discernable form; and (Figure 1A (display 120-124; col. 4, lines 4-22));
- an input device connected to the processor to allow a change in the care parameters by a health care provider. (col. 6, lines 34-41; col. 8, lines 20-43—parameters may be entered/altered by healthcare workers; col. 11, lines 45-62; col. 15, lines 36-43)

[claims 2] Maschke teaches a portable patient monitor wherein the processor decodes the patient data to process and display the patient data and encodes the care parameters to transmit the care parameters to the WLAN. (col. 3, lines 21-44; col. 5, lines 10-28; col. 6, lines 34-45; col. 8, lines 20-43)

[claims 3-4] Maschke teaches a portable patient monitor wherein the portable patient monitor is a primary monitoring device and wherein the processor processes the patient data to display ECG and vital sign data for a selected patient. (col. 6, lines 21-38; 34-49)

[claims 5 and 12] Maschke teaches a portable patient monitor wherein the communication interface is compatible with an existing WLAN. (col. 3, lines 21-44; col. 5, lines 10-28)

[claims 6-7] Maschke teaches a portable patient monitor (i.e. transportable housing) by healthcare providers. (col. 5, lines 30-40) Insofar as applicant has claimed only an approximate size for the device and the Maschke device is portable device, the Examiner is interpreting the Maschke device to be approximately the claimed dimensions.

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[claim 9] Maschke teaches a portable patient monitor wherein the processor is programmed to allow adjustment of alarm parameter violation limits. (col. 12, lines 34-38)

[claim 14] Maschke teaches a portable patient monitor wherein the processor is programmed to receive patient reports and diagnostic analyses prepared at other locations in the medical care facility to provide the health care provider with the patient reports and diagnostic analyses in real time. (col. 12, lines 45-col. 13, line 43—processor receives sensor data)

[claim 18] Maschke teaches a mobile clinical information management system to decentralize patient monitoring comprising:

- a portable patient monitor having a processor connected to a communication interface to receive and process patient data and to process and transmit care parameters (col. 3, lines 21-44; col. 5, lines 10-28; col. 6, lines 34-45), a display to display the patient data (Figure 1A (display 120-124; col. 4, lines 4-22)); and an input device to change the patient care parameters (col. 6, lines 34-41; col. 11, lines 45-62; col. 15, lines 36-43) the portable patient monitor having a configuration to allow wireless transport on a health care provider for extended periods; (col. 3, lines 21-44 col. 5, lines 10-28; col. 6, lines 34-45)
- a plurality of bedside patient monitors to connect to a plurality of patients and transmit patient data; (col. 11, lines 33-col. 14 lines, lines 34)
- a WLAN coupled to the plurality of bedside patient monitors and the portable patient monitor. (col. 3, lines 21-44; col. 11, lines 33-col. 14 lines, lines 34)

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[claim 19] Maschke teaches a system further comprising a plurality of portable patient monitors, each portable patient monitor assigned to a given number of patients. (col. 8, lines 27-40; col. 15, lines 20-52: multiple patients/multiple monitors)

[claim 20] Maschke teaches a system wherein the processor:

- decodes the patient data to process and display the patient data and encodes the care parameters to transmit the care parameters to the WLAN; and (col. 3, lines 21-44; col. 5, lines 10-28; col. 6, lines 34-45)
- processes the patient data to display ECG and vital sign data for a selected patient on the portable patient monitor. (col. 6, lines 21-38; 34-49)

[claim 21] Maschke teaches system wherein the portable patient monitor is a primary monitoring device (col. 6, lines 21-38; 34-49) and wherein a communication interface of the portable patient monitor is compatible with an existing WLAN. (col. 3, lines 21-44; col. 5, lines 10-28)

[claim 22] Maschke teaches a portable patient monitor (i.e. transportable housing) by healthcare providers. (col. 5, lines 30-40) Insofar as applicant has claimed only an approximate size for the device and the Maschke device is portable device, the Examiner is interpreting the Maschke device to be approximately the claimed dimensions.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Maschke et al (USPN 6,221,012)

[claim 13] Maschke teaches a portable patient monitor of claim 12 wherein the processor is programmed to interface with a plurality of devices, including ventilators.

(col. 16, lines 52-55) Maschke does not expressly disclose that processor interfaces with infusion pumps. However, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Maschke to program the processor to interface with infusion pumps as well. One would have been motivated to include this feature to provide continuity of data collection for a plurality of parameters, which affect the patient's health under various conditions. (See Maschke: col. 1, lines 39-48)

7. Claim 11 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Maschke and Gombrich (USPN 4,857,716)

[claim 11] Maschke teaches a portable patient monitor, which allows the user to check/verify that information from the monitor corresponds with the correct patient (col. 15, lines 20-35), but does not expressly disclose that the monitor further comprises a barcode scanner or that the system processor compares the barcode scanner information against a central computer to ensure that the accuracy of pharmaceutical information and doctors orders for the patient. Gombrich teaches a system including a

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portable monitor, including a barcode scanner. Gombrich further discloses the use of the barcode scanner to verify that the appropriate medication/doctors orders (e.g. dosage accuracy) are provided to the correct patient. (Figure 21; col. 15, lines 49-65; col. 16, lines 28-50) At the time of the Applicant's invention, it would have been obvious to one ordinary skill in the art to modify the method of Maschke with the teaching Gombrich to include the use of barcodes and barcode scanners to ensure that the proper drug dosages and doctors orders are provided to the appropriate patient. One would have been motivated include these features to improve the quality of medical treatment provided to the patient, by minimizing the possible human error and increasing the effectiveness of drug administration. (Gombrich: col. 1, lines 45-62)

[claim 24] Maschke teaches a portable patient monitor, which allows the user to check/verify that information from the monitor corresponds with the correct patient (col. 15, lines 20-35), but does not expressly disclose that the monitor further comprises a barcode scanner or that the system processor compares the barcode scanner information against a central computer to ensure that the accuracy of pharmaceutical information and doctors orders for the patient. Gombrich teaches a system including a portable monitor, including a barcode scanner and also discloses the use of patient wristbands with barcodes. Gombrich further discloses the use of the barcode scanner to verify that the appropriate medication/doctors orders (e.g. dosage accuracy) are provided to the correct patient. (Figure 21; col. 15, lines 49-65; col. 16, lines 28-50) At the time of the Applicant's invention, it would have been obvious to one ordinary skill in the art to modify the method of Maschke with the teaching Gombrich to include the use

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of patient barcodes and barcode scanners to ensure that the proper drug dosages and doctors orders are provided to the appropriate patient. One would have been motivated include these features to improve the quality of medical treatment provided to the patient by minimizing the possible human error and increasing the effectiveness of drug administration. (Gombrich: col. 1, lines 45-62)

Maschke also teaches a portable patient monitor wherein the processor is programmed to interface with a plurality of devices, including ventilators, (col. 16, lines 52-55) and to provide patient reports and diagnostic analyses to the health care provider(s) in real time. (col. 12, lines 45-col. 13, line 43—processor receives sensor data) Maschke does not expressly disclose that processor interfaces with infusion pumps. However, at the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method of Maschke to program the processor to also interface with infusion pumps. One would have been motivated to include this feature to provide continuity of data collection for a plurality of parameters, which affect the patient's health under various conditions. (See Maschke: col. 1, lines 39-48)

8. Claim 8, 26, and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke and Fuchs et al (USPN 5,788,646)

[claim 8] Maschke discloses a patient monitor system that tracks information regarding patient admission and discharge (col. 8, lines 38-47). Maschke also discloses that the system includes patient alarms (col. 12, lines 34-38), but does not expressly

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disclose that the patient monitoring system includes a processor to silence a patient's bedside alarm. Fuchs discloses that patient monitoring systems often enable remote silencing of bedside patient alarms. (col. 1, lines 19-34) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method/system of Maschke with the teaching of Fuchs to allow the processor to remotely silence patient bedside alarms. One would have been motivated to include this feature to minimize noise disruption for the patient.

[claim 26] Maschke discloses a computer program residing in memory of a portable patient monitor to cause a processor to:

- remotely interface to a WLAN to acquire any patient alarms; (col. 3, lines 21-84; col. 6, lines 59-64; col. 12, lines 30-38)
- use alarms associated with patient monitor; (col. 6, lines 59-64; col. 12, lines 30-38)
- display patient data (col. 4, lines 4-22)

Maschke teaches a patient monitoring system (and computer program for operating the system) but does not expressly disclose that the patient monitoring system sounds an alarm if a patient alarm occurs or that system allows the user to silence a patient's bedside alarm. Fuchs discloses patient monitoring systems that sound alarms when a patient alarm (e.g. emergency) occurs and further discloses that patient monitoring systems often enable remote silencing of bedside patient alarms. (col. 1, lines 19-34) At the time of the Applicant's invention, it would have been obvious to one of ordinary

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skill in the art to modify the method/system of Maschke with the teaching of Fuchs to provide alarms when patients experience emergencies and to allow the user to remotely silence patient bedside alarms. As suggested by Fuchs, one would have been motivated to include these features to reliably inform the staff of medical emergencies associated with the patients (col. 1, lines 59-63), while minimizing noise disruption for the patient.

[claim 28] Maschke teaches a computer program wherein the computer program further causes the processor to allow user adjustment of alarm parameter violation limits. (col. 12, lines 34-38)

[claim 29] Maschke teaches a computer program wherein the computer program further causes the processor to relay patient admission and discharge information to the WLAN. (col. 3, lines 21-44; col. 8, lines 27-47: patient data accessible after admission and before discharge)

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke, and Ballantyne (USPN 5,867,821), and in further view of Official Notice.

[claim 10] Maschke teaches a patient monitoring system as previously explained but does not expressly disclose that the monitor further comprises a microphone and audio recorder for capturing patient events. Ballantyne teaches a patient monitoring system that includes a PDA for health care providers which allows audio annotation to a patient record(s). (col. 13, lines 42-col. 14, lines 44) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of

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Maschke with the teaching of Ballantyne to include a PDA and audio recording/microphone to capture patient data. As suggested by Ballantyne, one would have been motivated to include these features to facilitate the collection and distribution of patient information and enhance the quality of healthcare provided to the patient. (col. 2, lines 55-62)

Maschke and Ballantyne do not expressly disclose the use of voice-over-internet protocol. However, it is respectfully submitted that the use of VOIP is well known in the art. At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to further modify the patient monitor of Maschke and Ballantyne in combination to permit VOIP transfer. One would have been motivated include this feature to further facilitate the collection of patient information and enhance the quality of patient healthcare services. One would have been motivated include this feature to further facilitate the collection of patient information and enhance the quality of patient healthcare services. (Ballantyne: col. 2, lines 55-62)

10. Claim 15-17 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke in view of Ballantyne (USPN 5,867,821), [claims 15 and 17] Maschke teaches a patient monitoring system as previously explained but does not expressly disclose that the patient monitor further comprises a PDA or that the monitor further comprises a microphone and audio recorder for capturing patient events. Ballantyne teaches a patient monitoring system that includes

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a PDA for health care providers which allows audio annotation to a patient record(s).

(col. 13, lines 42-col. 14, lines 44) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Maschke with the teaching of Ballantyne to include a PDA and audio recording/microphone to capture patient data. As suggested by Ballantyne, one would have been motivated to include these features to facilitate the collection and distribution of patient information and enhance the quality of healthcare provided to the patient. (col. 2, lines 55-62)

[claim 16] Maschke teaches a patient monitoring system as previously explained in the rejection of claim 15, but does not expressly disclose that the patient monitor further comprises a PDA. Ballantyne teaches a patient monitoring system that includes a PDA for health care providers, which provides reminders and scheduling information. (col. 13, lines 42-col. 14, lines 44—e.g. messaging and paging features, things to do) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Maschke with the teaching of Ballantyne to include a PDA, with scheduling and reminder features. As suggested by Ballantyne, one would have been motivated to include these features to facilitate the distribution of patient information, to enhance the quality of healthcare provided to the patient (col. 2, lines 55-62), and to ensure that patients receive appropriate medical services in a timely manner.

[claim 25] Maschke teaches a patient monitoring system as previously explained but does not expressly disclose that the patient monitor further comprises a PDA with

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scheduling or reminder functions or that the monitor further comprises a microphone and audio recorder for capturing patient events. Ballantyne teaches a patient monitoring system that includes a PDA for health care providers, which provides reminders and scheduling information, (col. 13, lines 42-col. 14, lines 44—e.g. messaging and paging features) and which allows audio annotation to a patient record(s). (col. 13, lines 42-col. 14, lines 44) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Maschke with the teaching of Ballantyne to include a PDA with scheduling and reminder features and which includes audio recording/microphone to capture patient data. As suggested by Ballantyne, one would have been motivated to include these features to facilitate the collection and distribution of patient information, to enhance the quality of healthcare provided to the patient (col. 2, lines 55-62), and to ensure that patients receive appropriate medical services in a timely manner.

11. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke, Ballantyne, Official Notice, and in further view of Fuchs.

[claim 23] Maschke teaches a patient monitoring system which tracks the admission and discharge of a patient (col. 8, lines 38-47) and which adjusts alarm parameter violation limits (col. 8, lines 20-43; col. 12, lines 34-38). Maschke does not expressly disclose that the system includes a speaker and microphone or that the system processes data to permit voice-over-internet protocol transfer. Ballantyne teaches a patient monitoring system that includes a PDA for health care providers which

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allows audio annotation to a patient record(s). (col. 13, lines 42-col. 14, lines 44) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Maschke with the teaching of Ballantyne to include audio recording/microphone to capture patient data. As suggested by Ballantyne, one would have been motivated to include these features to facilitate the collection and distribution of patient information and to enhance the quality of healthcare provided to the patient. (col. 2, lines 55-62)

Maschke and Ballantyne in combination do not expressly disclose the use of voice-over-internet protocol. However, it is respectfully submitted that the use of VOIP was well known in the art at the time of the Applicant's invention. At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to further modify the patient monitor system of Maschke and Ballantyne in combination to permit VOIP transfer. One would have been motivated include this feature to further facilitate the collection of patient information and enhance the quality of patient healthcare services. (Ballantyne: col. 2, lines 55-62)

Maschke and Ballantyne in combination also fail to disclose that the system allows the alarm of a bedside patient monitor to be silenced remotely, although Maschke does disclose that the system includes patient alarms (col. 12, lines 34-38). Fuchs discloses that patient monitoring systems often enable remote silencing of bedside patient alarms. (col. 1, lines 19-34) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method/system of Maschke and Ballantyne in combination with the teaching of Fuchs to allow the

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processor to remotely silence patient bedside alarms. As suggested by Fuchs, one would have been motivated to include these features to reliably inform the staff of medical emergencies associated with the patients (col. 1, lines 59-63), while minimizing noise disruption for the patient.

12. Claim 27 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke, Fuchs, and in further view of Gombrich.

[claim 27] Maschke and Fuchs teach a computer program for a patient monitoring system as explained in the rejection of claim 26. Maschke and Fuchs do not expressly disclose that the processor is programmed to check the battery and to indicate whether the rechargeable battery of the monitor is low, although Maschke does disclose the use of a rechargeable battery pack used to power the patient monitoring system (col. 4, lines 4-10; col. 5, lines 4-9). Gombrich teaches a system wherein a patient monitor checks the recharged battery level and displays a warning if the charge is low (Figures 33-35; col. 24, lines 39-68). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system/computer program to check the charge of the battery and to indicate if the charge is low. One would have been motivated to include this feature to minimize the possibility of inaccurate readings from the monitoring device (i.e. from lack of power)

[claim 31] Maschke and Fuchs teach the system/computer program of claim 26 as explained in the rejection of claim 26. Maschke teaches a portable patient monitor,

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which allows the user to check/verify that information from the monitor corresponds with the correct patient (col. 15, lines 20-35), but does not expressly disclose that the monitor further comprises a barcode scanner or that the system processor compares the barcode scanner information against a central computer to ensure that the accuracy of pharmaceutical information and doctors orders for the patient. Gombrich teaches a system including a portable monitor, including a barcode scanner and also discloses the use of patient wristbands with barcodes. Gombrich further discloses the use of the barcode scanner to verify that the appropriate medication/doctors orders (e.g. dosage accuracy) are provided to the correct patient. (Figure 21; col. 15, lines 49-65; col. 16, lines 28-50) At the time of the Applicant's invention, it would have been obvious to one ordinary skill in the art to further modify the system of Maschke and Fuchs in combination with the teaching Gombrich to include the use of patient barcodes and barcode scanners to ensure that the proper drug dosages and doctors orders are provided to the appropriate patient. One would have been motivated include these features to improve the quality of medical treatment provided to the patient by minimizing the possible human error and increasing the effectiveness of drug administration. (Gombrich: col. 1, lines 45-62)

13. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maschke, Fuchs, and in further view of Ballantyne.

[claim 30] Maschke and Fuchs teach the computer program of claim 26, as explained in the rejection of claim 26. Maschke teaches a patient monitoring system as

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previously explained but does not expressly disclose that the patient monitor system/program causes the processor to process audio recordings for capturing patient events. Ballantyne teaches a patient monitoring system that includes a processor for health care providers which allows audio annotation to a patient record(s). (col. 13, lines 42-col. 14, lines 44) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to further modify the system of Maschke and Fuchs in combination with the teaching of Ballantyne to include a processor to process audio recordings to capture patient data. As suggested by Ballantyne, one would have been motivated to include this feature to facilitate the collection and distribution of patient information and enhance the quality of healthcare provided to the patient. (col. 2, lines 55-62)

Response to Arguments

14. Applicant's arguments filed 10/4/04 have been fully considered but they are not persuasive.

(A) Applicant argues that the Maschke reference does not disclose a wireless local area network (WLAN), as claimed by the Applicant.

In response, Maschke discloses that multiple components of the patient monitoring computer system transmit data via wireless communication. (col. 3, lines 21-44) While the Applicant has cited portions from the Applicant's specification in an attempt to distinguish the wireless communication in the cited reference from that claimed in the instant invention, it is noted that the cited passage does not provide a

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definition for a WLAN. Instead, the passage merely provides examples of various entities, which may communicate via a WLAN. In the absence of such a definition, the Examiner must give the term the broadest reasonable interpretation. (e.g. wireless communication between 2 or more computer components) and provide art accordingly.

(B) The Applicant argues that the Maschke reference does not disclose an input device to allow a change in the care parameters by a healthcare parameters.

In response, the Examiner respectfully disagrees. The Maschke reference discloses that parameters for the patient monitor may be input and setup for a specific patient (see especially: col. 8, lines 20-43).

Moreover, it should be noted that the current wording of the claim is tentative and suggests an intended use for the input device. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

(C) The Applicant challenges the Examiner's statement that the use of voice-over-Internet Protocol was well-known in the art at the time of the Applicant's filing.

In response, Gallant et al (USPN 6,705,990) discloses a patient monitoring system, which transmits data via using a plurality of networks (e.g. LAN's, WAN's). The Gallant reference further discloses that at the time of the disclosed invention, voice-over

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internet protocol (VoIP) was a well known method used to transmit (voice) data (col. 21, lines 24-29). Kaffine et al (USPN 6,654,914) further discloses the use of VoIP prior to the filing date of the instant application (col. 9, lines 37-49).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In the present case, the Examiner has relied upon the reasoning of one of ordinary skill in the art and motivation pulled from one or more of the cited references to support the holding of obviousness.

(D) The Applicant's arguments regarding the WLAN of claim 18 on pages 10-11 of the 10/4/04 response are addressed in paragraph (A) of the Response to Arguments section of the present Office Action.

(E) As to the Applicant's arguments regarding the "sounding of alarm," the applicant fails to consider the combined teachings of Maschke in view of Fuchs. Maschke teaches a patient monitoring system (and computer program for operating the system) that includes the use of patient alarms. Fuchs discloses patient monitoring systems that sound alarms when a patient alarm (e.g. emergency) occurs and further discloses that patient monitoring systems often enable remote silencing of bedside

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patient alarms. (col. 1, lines 19-34) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the method/system of Maschke with the teaching of Fuchs to provide alarms when patients experience emergencies and to allow the user to remotely silence patient bedside alarms. As suggested by Fuchs, one would have been motivated to include these features to reliably inform the staff of medical emergencies associated with the patients (col. 1, lines 59-63), while minimizing noise disruption for the patient.

(F) The applicant argues that Fuchs teaches away from the applicant's invention because it requires a centralized review station and that Fuchs also fails to disclose a WLAN.

In response, Fuchs has not been relied upon in any combination to disclose the claimed WLAN, as explained in paragraph (A) of the Response to Arguments section of the present Office Action.

As to the Applicant's arguments that the Fuchs's reference teaches away from the Applicant's invention, the Applicant has cited a portion of the specification to discuss advantages that the claimed invention intends to overcome. However, while the Applicant may have intended these advantages with the claimed invention, the current claim language fails to distinguish the Applicant's invention from the prior art of record. For instance, there is nothing in the current claim language that precludes that centralized review stations. As such the combination of Maschke and Fuchs is proper and has been maintained.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel L. Porter whose telephone number is 703-305-0108. The examiner can normally be reached on M-F, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703)305-9588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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